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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,821	01/25/2002	Thomas E. Kee	50002.3US11	5149
38878	7590	11/22/2005		
DARBY & DARBY P.C. P.O. BOX 5257 NEW YORK, NY 10150-5257			EXAMINER CHEN, TE Y	
			ART UNIT	PAPER NUMBER
			2161	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,821

Applicant(s)

KEE ET AL.

Examiner

Susan Y. Chen

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12, 24 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 12 is/are allowed.
- 6) ☐ Claim(s) 1-10, 24 and 33-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/06/2005 has been entered.

This office action is in response to the amendment filed on 09/06/2005.

Claims 1-10, 12, 24 and 33-35 are pending for examination, claims 1, 12 and 24 have been amended; claims 33-35 have been newly added.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 24 and 33-35, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,991,306 issued to Burns et al. and in view of U.S. Patent No. 6,594,664 issued to Estrada et al.

As to claims 1, 24 and 33-35, the '306 patent disclosed the claimed method, comprising the following steps:

a) updating a first version of file on a origin server with a second version of the file, wherein the second version of the file is associated with content on the origin server [e.g., the download processing performed by the local service provider 110, Fig. 4, Fig. 4; col. 8, lines 23-40; col. 9, lines 1-65; col. 10, line 37-58; col. 11, lines 32-46];

b) if the second version of the file is updated on the origin server, automatically replacing on a cache server each entry associated with the first version of the file with a corresponding entries in the second version of the file, wherein content on the cache server is automatically updated in response to updating of content on the origin server [e.g., the use of aging schema to correlate and update the entities (i.e., time-to-live tags) of cache table; col. 10, line 37- col. 11, line 46; Fig 6 and associated text].

'306 patent did not specifically disclose that enabling at least one of the servers offline for updating contents, wherein the offline servers having at least some content that corresponds to the other online servers; and enabling these offline servers back online for updating the content of the corresponding cache server.

However, '664 patent discloses the claimed features comprising enabling at least one of the servers offline for updating contents [e.g., Title, Abstract, lines 10-15; Fig(s). 12 & 33 and associated texts], wherein the offline servers having at least some content [e.g., the Footprint data, 409, Fig. 12] that corresponds to the other online servers; and

enabling these offline servers back online for updating the content of the corresponding cache server [e.g., col. 37, lines 18-41].

Therefore, with the teachings of the '306 and '664 patents in front of him/her, it would have been obvious for an ordinary skilled artisan at the time the invention was made to be motivated to modify the invention of '306 patent with the uninterrupted on-line/off-line control mechanism to update the contents of the original/cache servers connected by the Internet as taught by the '664 patent. Because by doing so, the combined system would be upgraded to allow an efficient modification of the contents of the original and cache servers on the network without interrupting the activities performed by an end user.

As to claims 2-3, the '306 patent further discloses that the system having step to pre-populating the content on the cache server when updating the content on the origin server [e.g., the claimed limitations read by the pre-caches processing performs by the local service provider; col. 10, lines 37-47], wherein the pre-populating the cache server includes pushing content from a server [e.g., col. 11, lines 57-60].

As to claim 4, the '306 patent further discloses that the pre-populating the caches server includes the caches server pulling content from an origin server [e.g., col. 11, lines 32-46].

As to claims 5-6 and 7-9, the '306 patent further discloses using time-to-live tags to expire and update a portion of the content on the cache server [e.g., col. 10, lines 59 – col. 11, line 19].

As to claim 10, the '306 patent further discloses the file includes an HTML Web page [e.g., the CNN Web page at col. 9, lines 16-21].

Allowable Subject Matter

Claim 12 is allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 12 is allowed because the prior art on record fails to disclose the features of instant invention –if the at least one of the origin servers is bought back on-line, the cache server will automatically expire a time field for all entries of each file associated with the updated second content– in a combination as claimed by applicant.

Response to Arguments

Applicant's arguments with respect to claims 1-10, 12, 24 and 33-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y. Chen whose telephone number is 571-272-4016. The examiner can normally be reached on Monday - Friday from 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Y Chen
Examiner
Art Unit 2161

Nov. 8, 2005



**UYEN LE
PRIMARY EXAMINER**